



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

Regulatory Division
SAJ-71

August 6, 2000

DEPARTMENT OF THE ARMY PERMIT

GENERAL PERMIT SAJ-71

LIVE ROCK AQUACULTURE - STATE OF FLORIDA

Upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (U.S.C. 403), general authority is hereby given the Southeast Regional Office of the National Marine Fisheries Service, to administer the Department of the Army permit numbered above to deposit materials, for the purposes of live rock aquaculture, into the Exclusive Economic Zone (EEZ) [The EEZ surrounding the state of Florida encompasses the area between approximately 9 nautical miles offshore and 200 nautical miles offshore on the Gulf coast, and the area between approximately 3 nautical miles offshore and 200 nautical miles offshore on the Atlantic coast.] of the navigable waters of the United States in Florida subject to the following conditions:

SPECIAL CONDITIONS:

1. The work authorized herein includes the deposition of materials in the EEZ for the purpose of cultivating live rock.

2. A site evaluation report must be submitted by the applicant to the NMFS, Permit Division, Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida 33702. The report, which may include videotapes of underwater surveys, shall be prepared by a source acceptable to NMFS and shall demonstrate that the proposed site:

- a) is not a hazard to safe navigation or a hinderance to vessel traffic; and
- b) avoids traditional fishing operations, or other public access; and
- c) avoids impacts to naturally occurring hard bottom habitat and submerged aquatic vegetation; and
- d) contains natural underlying substrata that is primarily hard packed sand, hard shell hash, or less than 6-12 inches of sand over rock.

3. The applicant shall identify the site on a nautical chart in sufficient detail to allow for site inspection, and shall provide accurate latitude and longitude coordinates so that the site can be located by Differential Global Positioning System (GPS) equipment. Site inspection may be required on a case by case basis.

4. Sites which individually or cumulatively total more than one acre will not be authorized under this general permit. All multiple sites shall be contained within a one-acre boundary.

5. Rocks deposited on the aquaculture site must be geologically or otherwise distinguishable from the naturally occurring substrata or they must be indelibly marked or tagged.

6. All rocks must be placed on the site by hand, or lowered completely to the bottom by crane. Deposited materials shall not be allowed to "free fall" to the bottom, and all deposition shall occur while the vessel is "at anchor". Rocks may not be placed over naturally occurring reef outcrops, limestone ledges, coral reefs, or vegetated areas. A minimum setback of 50 feet must be maintained from naturally vegetated or hard bottom habitats. The permittee shall be required to submit "as-built" (post-activity) reports to the NMFS. The reports, which may include videotapes, shall be prepared by a source acceptable to NMFS and shall depict the project site subsequent to each deposition activity. The actual configurations and locations of the deposited materials and the distance from existing naturally occurring hard bottom habitat and submerged aquatic vegetation shall be clearly depicted.

7. All materials used in aquaculture operations must be nontoxic and all deposited rocks must be free of contaminants and non-indigenous flora and/or fauna.

8. Harvest of aquacultured live rock shall be by hand only; no mechanical dredging, drilling, blasting, etc. is authorized under this general permit.

9. The permittee shall be required to submit annual reports to the National Marine Fisheries Service which document the source, type, and weight of rocks deposited on the aquaculture site. Reports shall be sent to: Permit Division, Southeast Regional Office, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, Florida 33702.

10. The permittee shall be required to report on the weight of aquacultured product harvested as follows:

a) For aquacultured live rock landed in the State of Florida, the permittee shall be required to report to the Fisheries Statistics Section of the Florida Bureau of Marine Research ((Florida Fish and Wildlife Conservation Commission) (FWCC)), 100 Eighth Avenue SE., St. Petersburg, Florida 33701-5095. The reports shall be made on Form #33-610 (Florida Trip Ticket) or any other forms as deemed appropriate by FWCC.

b) For aquacultured live rock landed outside of Florida, the permittee shall be required to report to the Permit Division, Southeast Regional Office, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, Florida 33702. The reports shall be made on logbook forms, which will be provided to the permittee by the NMFS.

11. To be authorized under this general permit for activities within the EEZ, parties shall be required to obtain a permit from the National Marine Fisheries Service to harvest and possess aquaculture live rock in the EEZ. Permits can be obtained from the Permit Division, Southeast Regional Office, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, Florida 33702 (telephone 813 570-5326).

12. Additional permits may be required for aquaculture operations in areas in the EEZ which are under the jurisdiction

of other federal authorities, such as a National Marine Sanctuary.

13. No registered property or properties listed as eligible for inclusion in the National Register for Historic Places may be affected. Prior to the start of work, the permittee must contact the State Historic Preservation Officer in Tallahassee, Florida, and receive confirmation that no impacts to cultural resources will occur.

14. SAJ-71 is not authorized for use within the boundaries of the following areas:

a) State parks: John Pennekamp Coral Reef State Park, Lignum Vitae Key State Botanical Site and Aquatic Preserve, Long Key State Park, Curry Hammock State Park, and Bahia Honda State Park.

b) Areas of Critical State Concerns: Florida Keys and City of Key West Areas of Critical State Concerns

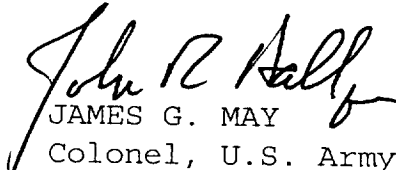
15. This general permit will be valid for five years from the above date or until suspended or revoked by issuance of a public notice by the District Engineer. Periodic review will be conducted to determine if continuation of the permit remains "not contrary to the public interest."

16. Conformance with descriptions and quantities contained herein does not necessarily guarantee authorization under this general permit.

17. The District Engineer reserves the right to require that any request for authorization under this general permit be processed as an individual permit.

18. The General conditions attached hereto are made a part of this permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


JAMES G. MAY
Colonel, U.S. Army
District Engineer

GENERAL CONDITIONS FOR DEPARTMENT OF THE ARMY GENERAL PERMITS

General Conditions

1. The time limit for completing the work authorized ends on _____.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature and mailing address of the new owner in the space provided below and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Further Information:

1. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
2. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
4. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
5. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
6. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

GENERAL PERMIT